

REGULATION

SPDOC No.: 03-35	Effective Date: October 12, 2003	Index Reference: Temporary Furloughs Furlough Hours Furlough Days	Regulation Number: 5.19
Issuing Bureau: Human Resource Services	Rule Reference: Rule: 5-16 (Temporary Furloughs)		Replaces: NEW
Subject: TEMPORARY FURLOUGH HOURS			

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1. PURPOSE

Civil Service Rule 5-16 [Temporary Furloughs] requires nonexclusively represented employees (NEREs) to take a defined number of paid and unpaid furlough hours between October 12, 2003, and September 30, 2004. This regulation establishes standards governing paid and unpaid furlough hours for NEREs.

2. **CIVIL SERVICE COMMISSION RULE REFERENCE**

Rule 5-16 Temporary Furloughs

5-16.1 Unpaid Furlough Hours

(a) ***Unpaid furlough hour defined.*** *An unpaid furlough hour is an otherwise regularly scheduled work hour during which the employee, at the direction of the appointing authority, does not work and is not paid.*

(b) ***Relation to other rules and regulations.***

(1) ***Insurance, leave accruals, and service credits.*** *Notwithstanding any other civil service rule or regulation or the fact that an employee's work hours or pay is reduced by the requirement to take unpaid furlough hours, all unpaid furlough time is considered creditable time for all purposes, including, but not limited to, the following:*

(A) *Satisfaction of the standard 80-hour biweekly period for full-time employees [rule 5-2.1].*

(B) *Compliance with compensation schedules [rule 5-3].*

(C) *Eligibility for overtime compensation [rule 5-4.2].*

(D) *Computation of service hours for the following:*

(1) *Longevity [rule 5-8].*

(2) *Annual and personal leave [rule 5-10.2(a)(1)].*

(3) *School participation leave [rule 5-10.2(a)(2)].*

(4) *Sick leave [rule 5-10.2(a)(3)].*

(5) *Holiday pay for less than full-time appointment [rule 5-10.1].*

(6) *Completion of a probationary period [rule 3-6.2].*

(E) *Eligibility for group insurance plans and benefit levels [rules 5-2.2 and 5-11].*

(F) *Computation of total continuous service hours for all purposes, including, but not limited to, employment preference, layoff, recall, step increases, and, if authorized by statute, retirement.*

(2) ***Not a break in service.*** *An employee does not incur a break in service as result of taking unpaid furlough hours.*

(3) ***No substitution.*** *An employee cannot substitute annual leave, sick leave, school leave, banked leave time, or any other paid status for an unpaid furlough hour.*

(c) Scheduling unpaid furlough hours.

(1) Scheduled day on January 2, 2004.

- (A)** *All employees, except essential employees who are required to work on January 2, 2004, shall be furloughed without pay on January 2, 2004.*
- (B)** *If an employee (1) is not designated as an essential employee and the employee's regular day off falls on January 2, 2004, or (2) is designated as an essential employee and works on January 2, 2004, the employee must schedule and take the following number of unpaid furlough hours in accordance with subsection (c)(2):*

 - (1)** *An employee in a full-time appointment must schedule and take 8 unpaid furlough hours.*
 - (2)** *An employee in a less than full-time appointment must schedule and take a pro rata share of 8 unpaid furlough hours, as provided in the regulations.*
- (C)** *Furloughed employees who have a regular work schedule in excess of 8 hours on January 2, 2004, may elect any one of the following to complete their scheduled work day in excess of 8 hours:*

 - (1)** *Use accrued annual leave hours, banked leave time hours, or compensatory time.*
 - (2)** *Accept lost time.*
 - (3)** *Accept unpaid furlough hours.*

(2) Floating unpaid furlough hours. *Notwithstanding any other rule or regulation, each employee is required to take the following number of unpaid furlough hours between October 12, 2003, and September 30, 2004, consistent with applicable law:*

- (A)** *An employee in a full-time appointment hired on or before October 12, 2003, is required to take 40 hours of unpaid furlough leave. Any unpaid furlough hours taken on January 2, 2004, count toward the 40-hour requirements.*
- (B)** *An employee in a full-time appointment hired after October 12, 2003, or an employee in a less than full-time appointment is required to take a pro rata share of 40 unpaid furlough hours, as provided in the regulations. Any unpaid furlough hours taken on January 2, 2004, count toward the hours requirement.*

- (3) **Scheduling by employee.** *An employee may take floating unpaid furlough hours when approved by the appointing authority in the same manner as annual leave. However, an employee cannot take more than 8 hours of unpaid furlough hours in any one week (defined as Sunday through the following Saturday).*
- (4) **Scheduling by appointing authority.** *If an employee has not scheduled the required unpaid furlough hours by May 24, 2004, the appointing authority shall schedule any remaining required unpaid furlough hours. The appointing authority must give an employee notice of any scheduled unpaid furlough hours at least 14 calendar days before the beginning of the pay period in which the unpaid furlough hours are scheduled. The appointing authority shall not schedule more than 8 unpaid furlough hours in any one pay period.*

5-16.2 Paid Furlough Day

- (a) **Paid furlough day defined.** *A paid furlough day is an otherwise regularly scheduled work day during which the employee is prohibited from working but is paid in the same manner and rate of pay as if the paid furlough day was an approved state holiday authorized under rule 5-10.1 [Paid Holidays].*
- (b) **Scheduled on December 26, 2003.** *All employees, except essential employees who work on December 26, 2003, shall take 1 paid furlough day on December 26, 2003.*
- (c) **Essential employees.** *If an employee is designated as an essential employee and works on December 26, 2003, the employee is credited with a number of hours of annual leave equal to the number of hours actually worked, but not exceeding 8 hours, in addition to any pay for the time worked on December 26, 2003.*
- (d) **Scheduled regular day off.** *If an employee in a full-time appointment does not work on December 26, 2003, because of a scheduled regular day off, the employee is credited with 8 hours of annual leave. If an employee in a less than full-time appointment does not work on December 26, 2003, because of a scheduled regular day off, the employee is credited with a pro rata share of 8 hours of annual leave, as provided in the regulations.*

5-16.3 Essential Employees

An appointing authority may, in its sole discretion, designate as an essential employee for the purposes of this rule any employee who is required to work on December 26, 2003, or January 2, 2004.

5-16.4 Exemptions

An appointing authority, with the consent of the state employer, may request that the state personnel director exempt an employee from the obligation to take some or all of otherwise required unpaid furlough hours. Notwithstanding section 5-

16.1(c), the state personnel director may exempt the employee if the director determines that (1) the employee is providing immediate essential public services or (2) uncommon extenuating circumstances warrant granting an exemption for the employee.

5-16.5 Grievances

If an employee is aggrieved by application of this rule and the complaint is otherwise grievable under rule 8-1.3(a)(1) through 8-1.3(a)(8), the employee may file a grievance under and in accordance with rule 8-1 [Grievances].

3. DEFINITIONS

A. Civil Service Commission Rule Definitions

1. **Career appointment** means an appointment to a classified position that is expected to last the equivalent of 90 full-time workdays or more. A career appointment may be an indefinite appointment or a limited-term appointment.
2. **Employee** means a classified employee of the state of Michigan over which the civil service commission has jurisdiction under the constitution.
3. **Employee status code** means the following types of appointment status assigned to an employee for the purposes of determining pay, benefits, and employment preference:
 - (a) Full-time indefinite career appointment.
 - (b) Part-time indefinite career appointment.
 - (c) Limited-term career appointment (full-time and part-time).
 - (d) Intermittent career appointment.
 - (e) Seasonal career appointment.
 - (f) Noncareer appointment.
4. **Indefinite appointment** means a career appointment with no fixed ending date at the time of appointment.
5. **Limited-term appointment** means a career appointment that has a fixed ending date at the time of appointment.
6. **Noncareer appointment** means an appointment to a classified position that is expected to last less than the equivalent of 90 full-time workdays in a calendar year.
7. **Hours in pay status** means the hours an employee reports that are counted in the pay class "HRS: Hours in Pay Status" as defined in HRMN system.

B. Additional Definitions as used in this Regulation

1. **Overtime-eligible employee** means an employee in a classification that is assigned an overtime eligibility code of "N" in the compensation plan and is therefore eligible for overtime compensation.
2. **Overtime-ineligible employee** means an employee in a classification that is assigned an overtime eligibility code of "Y" in the compensation plan and is therefore ineligible for overtime compensation.

4. STANDARDS

A. Unpaid Furlough Hours: Proration.

1. **Pro rata furlough hours required.** Employees in a full-time appointment hired on or before October 12, 2003, must take 40 unpaid furlough hours between October 12, 2003, and September 30, 2004. The following employees must take a pro rata share of 40 hours of unpaid furlough leave, based on the formulas in Standard 4(A)(2), below:
 - a. Employees in a full-time appointment hired after October 12, 2003.
 - b. Employees working less than full-time.
 - c. Employees who take an unpaid leave of absence between October 12, 2003, and September 25, 2004.
2. **Computing the Proration of Furlough Hours.** To compute the number of prorated unpaid furlough hours required, use the following formulas:
 - a. Formula A: First, estimate the number of hours the employee will be in pay status annually:

(Estimated number of hours in pay status per pay period)

*X (Estimated number of pay periods in pay status
between October 12, 2003, and September 25, 2004)*

= Estimated Annual Hours in Pay Status

- b. Formula B: Using the result of Formula A, compute the number of prorated unpaid furlough hours the employee is required to take:

(Estimated annual hours in pay status)

X 0.02

= Prorated Annual Unpaid Furlough Hours Required

The following chart illustrates examples of prorated unpaid furlough hours based on the estimated hours in pay status:

Estimated Hours In Pay Status	Prorated Unpaid Furlough Hours
2000	40
1750	35
1500	30
1250	25
1000	20
750	15
500	10
250	5

B. Unpaid Furlough Hours: Additional Requirements.

1. **Additional Requirements for All Employees.** In addition to the requirements in Rule 5-16, the following requirements on unpaid furlough hours apply to all employees:
 - a. Lost time hours and time off because of a disciplinary suspension do not count toward or reduce the number of unpaid furlough hours required.
 - b. Unpaid furlough hours may be substituted for approved Plan A hours.
 - c. Plan A hours do not count toward or reduce the number of unpaid furlough hours required.
2. **Additional Requirements for Overtime-Ineligible Employees.** In addition to the requirements in Rule 5-16 and standard 4(B)(1), the following additional requirement on unpaid furlough hours apply to all overtime-ineligible employees:
 - a. In any week in which an overtime-ineligible employee takes unpaid furlough time, the total of unpaid furlough time and other time in pay status cannot exceed 40 hours. If it is necessary to reduce reported hours in pay status to avoid exceeding the limit of 40 hours, the number of unpaid furlough hours must be reduced first.
 - b. If an overtime-ineligible employee schedules or takes unpaid time in a week in which the employee also reports 40 hours of other time in pay status (not including unpaid furlough

time), the employee cannot report, enter, or be credited with any unpaid furlough hours in that week.

- c. An employee scheduling unpaid furlough time must schedule at least 4 hours, but not more than 8 hours, in any one week (defined as Sunday through the following Saturday.)

C. Unpaid Furlough Hours: Change in Status Code or Position.

1. If the employee status code changes or the employee changes positions, the employee must satisfy the furlough hour requirement for each status code assigned or position occupied on a pro rata basis by September 30, 2004.
2. All furlough hours or other equivalent hours credited to an employee before changing status code or position are credited to the employee's final furlough hour requirement.
3. If an employee takes or reports more unpaid furlough hours than is required, no adjustment is permitted.
4. The appointing authority must schedule any remaining unpaid furlough hours for an employee who moves from one department to another after May 24, 2004.

D. Unpaid Furlough Day on January 2, 2004.

1. January 2, 2004, is designated as an unpaid furlough day for employees. An employee who is furloughed on January 2, 2004, is credited with unpaid furlough time for the scheduled work time missed.
2. Employees in the following categories do not take, and are not credited with, any unpaid furlough time on January 2, 2004:
 - a. An employee not designated as an essential employee whose scheduled regular day off falls on January 2, 2004.
 - b. An employee designated as an essential employee who works on January 2, 2004.

Employees in these categories must take sufficient additional floating unpaid furlough hours to satisfy the hour requirement of Rule 5-16.1(c)(2).

E. Exemptions from Unpaid Furlough Hour Requirement.

1. An appointing authority may request that an employee be exempted from taking some or all of the required furlough hours. The appointing authority's written request and supporting rationale must be sent to the Director of the Office of the State Employer for concurrence.

2. If the Director of the Office of the State Employer concurs with the appointing authority's request, the Director of the Office of the State Employer will forward the request to the State Personnel Director for action.
3. The State Personnel Director may grant in writing a requested exemption when appropriate, and if the requested exemption meets either of the following circumstances:
 - a. The employee provides immediate essential public services and the requested exemption from the unpaid furlough hour requirement is appropriate.
 - b. Uncommon extenuating circumstances that warrant exempting the employee from the unpaid furlough hour requirement.

F. Paid Furlough Day on December 26, 2003.

December 26, 2003, is designated as a paid furlough day for career employees, except for essential employees required to work on that day.

1. A career employee who is not designated as an essential employee must take December 26, 2003 as a paid furlough day. Pay is determined in accordance with regulation 5.08 [Paid Holidays].
 - a. A full-time career employee who has December 26, 2003, as a scheduled regular day off will be credited with 8 hours of annual leave.
 - b. A full-time career employee who has a regular work schedule in excess of 8 hours on December 26, 2003, may elect any of the following to complete their work schedule in excess of 8 hours:
 - (1) Use accrued annual leave hours, banked leave time hours, or compensatory time.
 - (2) Accept lost time.
 - (3) Accept unpaid furlough hours.
 - c. A less than full-time career employee who has December 26, 2003, as a scheduled regular day off will be credited with a pro rata share of 8 hours of annual leave in the same manner as holiday credit is determined in Regulation 5.08 [Paid Holidays].
2. A career employee designated as an essential employee who works on December 26, 2003, in addition to receiving pay for hours worked, will be credited with annual leave hours equal to the number actually worked, not to exceed 8 hours.

3. A non career employee who is furloughed on December 26, 2003 is ineligible to be paid.

G. Essential Employees.

The appointing authority has the discretion to determine which employees are essential to operations on December 26, 2003, and January 2, 2004. If an employee is designated as an essential employee, the employee may be scheduled to work on December 26, 2003, or January 2, 2004.

H. Grievances.

An employee may file a grievance regarding the application of this rule, as provided in Rule 5-16.5. The grievance must be a complaint against an appointing authority and concern an action that involves the discretion of or control by the appointing authority in applying Rule 5-16. A grievance cannot be filed against the Civil Service Commission, the Department of Civil Service, the State Personnel Director or cannot be concerning actions by the Civil Service Commission, the Department of Civil Service, or the State Personnel Director. An improper grievance or grievance appeal is subject to administrative dismissal.

CONTACT

Questions regarding this regulation should be directed to Compensation and Performance Management Division, Department of Civil Service, P.O. Box 30002, 400 South Pine Street, Lansing, Michigan 48909; by telephone, at 517-335-7862, or by e-mail to CahoonA@michigan.gov.

NOTE: Regulations are issued by the State Personnel Director, under authority granted in the *State of Michigan Constitution* and the *Michigan Civil Service Commission Rules*. Regulations that implement Commission Rules are subordinate to those Rules.